

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DANNY GRIFFITH,
Plaintiff,

v.

JOSEPH LEHMAN,
Defendant.

Case No. C06-5022 FDB/KLS

REPORT AND RECOMMENDATION

NOTED FOR: AUGUST 11, 2006

This 42 U.S.C. § 1983 civil rights action has been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This action was filed on January 11, 2006. (Dkt. # 1). Plaintiff was given leave to proceed *in forma pauperis*. (Dkt. # 3). Plaintiff is attempting to litigate for the loss of “earned early release” time. Plaintiff was ordered to amend his complaint to allege a constitutional harm under Section 1983, but has failed to do so.

DISCUSSION

Plaintiff was originally ordered to amend his complaint by March 11, 2006. (Dkt. # 5). Rather than amend his complaint, plaintiff appealed the court’s order to the district court. (Dkt. # 6). Judge Franklin D. Burgess ordered the plaintiff to file an amended complaint by June 26, 2006, warning that a failure to do so might result in a recommendation of dismissal of his action. (Dkt. 7). Plaintiff has not amended his complaint nor has he sought an extension of time within which to file an amended complaint.

CONCLUSION

The court recommends the action be **DISMISSED WITH PREJUDICE** for the reasons stated in the order to amend and for failure to comply with the court's order to amend (Dkt. # 5), and for failure to comply with the order of the District Court (Dkt. # 7). A proposed order accompanies this Report and Recommendation.

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on **August 11, 2006**, as noted in the caption.

DATED this 18th day of July, 2006.



Karen L. Strombom
United States Magistrate Judge